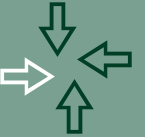


TO

C I V I L S E R V I C E



Key Organizational Members

Walter Vaughn 916.653.1028
Executive Officer

Linda Brooks 916.653.1028
Assistant Executive Officer

Elise Rose 916.653.1403
Chief Counsel

Judy Balmain 916.653.0453
Legislative Director

Laura Aguilera 916.653.0549
*Chief, Personnel Resources &
Innovations Division*

William A. Heal 916.653.0443
*Chief, Administrative
Services Division*

Armand Burruel 916.654.1449
Chief, Appeals Division

Members of the Board

Florence S. Bos
President

Richard Carpenter
Vice President

Ron Alvarado
Member

William Elkins
Member

Lorrie I. Ward
Member



Public Service...Employment for the 21st Century

T H E M E R I T S Y S T E M



In 1934, California voters established the merit system for appointing and promoting State employees. This act ended the patronage and spoils system that once characterized employment in State service. The merit system requires that employment decisions be based upon job-related requirements, free from patronage and other forms of illegal discrimination.



For selection and promotion, the merit principle requires that potential employees take and pass a State exam, where the candidate's skills are evaluated based on job requirements. Their abilities are compared and assessed against other candidates interested in the position. Appointments and promotions can be made to the top candidates (as determined by competitive examination).



ROLE OF THE STATE PERSONNEL BOARD

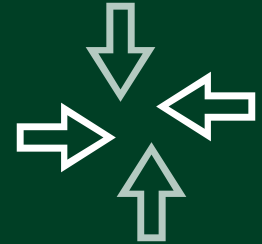
The State Personnel Board (SPB) was established to administer and provide policy guidance for the civil service system and ensure compliance with the merit principle.

The SPB approves State classifications, establishes probationary periods, reviews disciplinary actions and reviews and approves departmental affirmative action goals.

The SPB also provides a variety of human resource services to departments, including:

- ➔ Outreach and focused recruitment
- ➔ Exam development and administration
- ➔ Resolution of employee disputes through mediation, through evidentiary and non-evidentiary hearings and appeals
- ➔ Civil service training

The SPB provides policy consultation to departments on rules, oversight and personnel transactions as well as departmental direction and guidance on affirmative action programs.



[Role]





In practice, most of the State's human resource (HR) and/or personnel functions are decentralized. Each department has the authority for many routine HR decisions, including conducting most examinations and processing transactions such as hiring, promoting, transferring and discipline (in accordance with State laws and rules) without the need for pre-approval from the SPB.

The SPB is available to consult on difficult issues and is available on a reimbursable basis to conduct and develop exams and provide training to departmental staff.



Exempt Appointments

Most departments have a limited number of positions that meet certain provisions and are excluded from the civil service. These positions are filled by appointment of the Governor, Agency Secretary or Department Director. SPB has no role in the selection assignments, pay or termination of employees in these positions. In some instances, exempt employees can take departmental promotional examinations and be appointed to positions included in the civil service. Also, in some instances, persons terminated from exempt positions have rights to employment in civil service positions. Consult your departmental human resource staff or staff at SPB for details.

Career Executive Assignments

Career Executive Assignment (CEA) positions are characterized as high-level, policy-influencing assignments, responsible for managing a major departmental function or rendering high-level management advice. CEA

positions are filled by competitive examinations and are distinguished from other civil service positions by:

- ➔ Only civil service employees with permanent status and certain exempt and legislative employees with two years experience are eligible for testing and appointment to CEA positions.
- ➔ CEA appointments may be terminated at any time with 20 days notice to the incumbent.
- ➔ Appeals of CEA terminations are limited. The only basis for appeal is illegal discrimination based on age, sex, sexual preference, etc., political affiliation or political opinion.
- ➔ If terminated, civil service appointees to CEA positions have a mandatory return right to jobs in their former classifications.

Classification

The SPB is responsible for adopting and modifying State classes. Approximately 4000 classes have been adopted and are available for use by departments. Civil service laws require that employees



work in classifications that encompass their duties. When modifications need to be made to existing classes or new classes need to be established, departmental human resource departments develop draft proposals and submit them to affected unions, the Department of Personnel Administration and the SPB for approval and adoption.

Methods to Fill Vacant Positions

When a position is vacant, departments have an array of options to fill the vacancy using:

→ Employment lists (promotional, open or non-promotional eligibility lists)

These employment lists are made up of the names of persons who have successfully participated in a competitive examination and received a passing score. The names are placed on the list in score order and the person must be reachable on the list (usually within the top three scoring ranks), before they may be appointed.

→ Reemployment lists

These lists may be sub-divisional, departmental, or general. The lists are made up of persons who have been placed in seniority order to fulfill a mandatory right to a vacant position in the class. Some of the reasons why an individual would be placed on a reemployment list include layoff or demotion in lieu of layoff.

→ State Restriction of Appointment (SROA) lists

SROA lists are made up of persons who are in jeopardy of being laid off and may be given priority consideration for any vacancies in their classification or a classification at substantially the same level.

→ Transfers

Once a civil service employee has been appointed as a result of a competitive examination to a permanent or probationary position, he or she may transfer; 1) from one department to another in the same class; or 2) to another class that is substantially the same in responsi-

bility, level of duties and salary as the class to which they are currently appointed within the same department or to another department.

→ Reassignments

This may include: 1) moving an employee in the same class within the department into the vacant position and then refilling the position he or she vacates; 2) redistributing the work of the position among other employees at the same level and leaving the position vacant for salary savings.

→ Training and development assignments

These assignments provide an employee the opportunity to move into other occupational areas without the need for an exam or the need for the employee to meet the minimum qualifications of the position. The guidelines of training and development assignments require that: 1) the new assignment cannot pay a salary that is more than 10 percent or less than 10 percent of the previous salary;

2) the new assignment must be outside of the promotional path that the employee has come from; and 3) the assignment is limited to 2 years. A permanent or probationary civil service employee may accept a training and development assignment in another department or another class within the same department or another department.

→ Reinstatements

Retired: A retired employee can be reinstated to a position in the classification from which he or she retired, or a comparable classification.

Mandatory: A mandatory reinstatement can be implemented when an employee is gone for such things as an approved leave of absence (like pregnancy or medical leave). This type of reinstatement constitutes an absolute right of return for the employee.

Permissive: When an employee resigns from a position, the department has the option of reinstatement. Reinstatement is not mandatory.



Mandatory reinstatements, SROA lists and reemployment lists generally take precedence (meaning an employer should hire from these lists first) over employment lists, transfers and training and development assignments when filling vacancies. An order of preference for the use of employment lists is specified in Government Code Section 19054.

Adverse Actions

Adverse actions are formal disciplinary measures taken against civil service employees. They include:

- ➔ Dismissal
- ➔ Suspension
- ➔ Demotion
- ➔ Reduction in salary
- ➔ Formal reprimand

There are 24 legal causes for discipline in the Government Code, including incompetence, insubordination, dishonesty and neglect of duty.

Departments initiate the adverse action process by documenting the performance or behavioral problems of the employee and serving the employee

with a formal notice of adverse action. The employee is given at least five working days written notice before the action takes effect. When the employee receives the notice of the adverse/disciplinary action, he or she has the right to respond verbally or in writing to the department regarding the charges prior to their effective date. An informal Skelly hearing is generally held and the employee's response is presented. The employee may file an appeal with the SPB within 30 days after the notice of adverse action is served. Precedential decisions of the SPB 5-member board are available to guide departments and can be obtained from the SPB web site (www.spb.ca.gov).

Appeals

Generally the SPB receives 4000 to 5000 appeals per year; a relatively small number considering there are nearly 200,000 individuals employed by the State.

Most of the complaints and appeals that reach the SPB result from actions taken by the department (such as adverse actions) or were previously investigated or reviewed by departments and are unresolved.

Appeals that typically result from actions taken by the department include:

- ➔ Adverse action
- ➔ Rejection during probationary period
- ➔ Medical termination/demotion/suspension/transfer
- ➔ Nonpunitive termination/demotion/transfer
- ➔ Termination of limited term/seasonal/temporary authorization
- ➔ Termination of Limited Examination and Appointment Program appointment
- ➔ Termination of Career Executive Assignment appointment
- ➔ Termination/automatic resignation of permanent intermittent employee
- ➔ Withhold from certification

The following types of appeals are usually filed directly with the SPB:

- ➔ Request to file charges
- ➔ Request to test - dismissed employee
- ➔ Voided appointment
- ➔ Pre-employment medical/psychological disqualification
- ➔ Examination appeal
- ➔ Failure of pre-employment drug test
- ➔ Discrimination retaliation

The following types of appeals are filed directly with the department (and can often be resolved without involving the SPB). These appeals are only reviewed by the SPB if unresolved at the departmental level:

- ➔ Discrimination complaints
- ➔ Denial of request for reasonable accommodation
- ➔ Merit issue complaints
- ➔ Out-of-class claims

The appeals process may involve an evidentiary hearing before an administrative law judge, a less formal non-evidentiary hearing before a staff hearing officer, or an informal investigation with or without a hearing.

The SPB has broad remedial authority when it grants an appeal. Remedies may include reinstatement, back salary, benefits and interest at seven percent, change in work assignment and/or location and assignment of an alternative or passing score. SPB may also grant compensatory damages in discrimination cases.



Affirmative Action

DEPARTMENT RESPONSIBILITY

Each department is required to have an effective affirmative action program and provide a working environment free of harassment and discrimination. This includes:

- ➔ Having an affirmative action officer on staff who reports to the director. In smaller departments (with 500 or fewer employees) the personnel officer often acts as the affirmative action officer.
- ➔ Having an affirmative action plan, monitoring the work force composition to identify any underutilization of minorities, women and persons with disabilities and annually establishing employment goals and timetables to address underutilization problems.
- ➔ Having and implementing policies on sexual harassment prevention and equal employment opportunity.
- ➔ Having an effective discrimination complaint process with trained investigators and counselors to aid in resolving these matters.

Departments should review their affirmative action plan and current policies on equal employment opportunities and sexual harassment prevention to be certain they are consistent with current laws and express the director's commitment to these programs.

STATE PERSONNEL BOARD RESPONSIBILITY

The SPB's role in affirmative action implementation involves:

- ➔ Providing statewide advocacy coordination/enforcement
- ➔ Monitoring of departmental affirmative action programs
- ➔ Coordinating outreach and recruitment resources
- ➔ Developing valid selection methods
- ➔ Creating innovative personnel processes through demonstration projects

The SPB annually reviews progress made by departments to eliminate underutilization of any group and provides reports to the Legislature and the Governor.

Training

The SPB provides a wide variety of personnel-related classes and programs including:

- ➔ Personnel Actions (Drafting notices of adverse action, rejection, medical and "without fault" actions)
- ➔ Reasonable Accommodation and the ADA
- ➔ Equal Employment Opportunity
- ➔ Sexual Harassment Prevention
- ➔ Exempt and CEA Return Rights
- ➔ Reinstatement and Transfers
- ➔ Selection Principles and Systems
- ➔ Personnel Management
- ➔ Selection Analyst Training

In addition to offering these ongoing series, SPB staff is available to work with managers and supervisors to develop customized, program-specific training classes to meet the particular needs of each department.

Personal Service Contracts

State agencies may enter into personal service contracts with private firms when the department can provide documented justification that:

- ➔ State workers cannot perform the work adequately or competently
- ➔ Clearly demonstrates that the contract will result in actual cost savings to the State
- ➔ The work calls for the performance of a new State function and is authorized by the Legislature

Contracting out must not result in the displacement, lay off, demotion or transfer of any State employee. All outside contracting is subject to appeal by State employee union organizations and will be reviewed by the SPB.